

STATE OF WASHINGTON  
GAMBLING COMMISSION

In the Matter of the Suspension or )  
Revocation of the License to Conduct )  
Gambling Activities of: )  
Ching Hua Garden )  
Spokane Valley, Washington, )  
Licensee. )  
\_\_\_\_\_ )

No. CR 2011-01432

**NOTICE OF ADMINISTRATIVE  
CHARGES AND OPPORTUNITY  
FOR AN ADJUDICATIVE  
PROCEEDING**

RICK DAY alleges as follows:

I.

He is the Director of the Washington State Gambling Commission and makes these charges in his official capacity.

II.

Jurisdiction of this proceeding is based on chapter 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

III.

The Washington State Gambling Commission issued Ching Hua Garden, organization number 00-21308, located at 18203 E. Appleway, Spokane Valley, Washington, the following license:

Number 05-20578, authorizing Class "A" Punchboard/Pull-Tab<sup>1</sup> activity.

The license, which expires on March 31, 2012, was issued subject to the licensee's compliance with state gambling laws and regulations.

<sup>1</sup> Pull tabs are games of chance where a player pays the advertised price posted on a game information sheet (flare) and receives a ticket (tab) which offers a chance to win cash or merchandise. The price of the tabs ranges from twenty five cents per ticket to one dollar per ticket. The flare lists the name of the game plus additional game information and is attached to a clear storage container (bowl or tank). The bowl is where all the individual pull tabs from a game are stored (in public view) while on sale.

#### IV.

#### **SUMMARY:**

From 2007 through 2011, the licensee failed to prepare and maintain proper monthly pull-tab reports and underreported their gambling receipts. During the same time period, the licensee failed to maintain and account for their pull-tab inventory. The licensee also failed to submit proper and timely quarterly activity reports, under-reported activity in 2009 and 2010, and failed to submit any reports at all for the fourth quarter of 2009. This repeated behavior reflects willful disregard of administrative gambling rules.

#### **FACTS:**

1) In early October 2011, a Commission Special Agent (agent) was contacted by Qing Liu Jensen (Lori Jensen), who informed the agent that her partnership in the Ching Hua Garden had been dissolved, she was no longer a partner in the business, and she would no longer be responsible for maintaining pull-tab records for the licensee. Ms. Jensen stated that her former partner, Guo Hua Liu (Jack Liu), would continue to operate the restaurant as a sole proprietorship. He had pulled the pull-tab fishbowls from play in late August 2011, and may not be interested in continuing to operate pull-tabs in the future.

2) On October 10, 2011, an agent went to the Ching Hua Garden to discuss the licensee's pull-tab operations with Mr. Liu. Mr. Liu was not fluent in English, and a restaurant employee assisted with translation. Mr. Liu told the agent that he had removed all of the licensee's pull-tabs from play in August 2011. He did not intend to continue to sell pull-tabs at that time, but that he may decide to begin selling pull-tabs again in the future.

3) A visual inspection of the bar area by the agent confirmed that there were no pull-tabs in play. The agent informed Mr. Liu that he needed to complete a Quarterly Activity Report (QAR) for the third quarter of 2011, because pull-tabs had been sold and redeemed during that quarter. He also needed to submit a QAR for all other quarters during which the licensee's pull-tab license is in effect. The agent facilitated the appropriate forms being sent to Mr. Liu by Commission staff.

4) On October 20, 2011, the agent conducted a follow-up contact with Mr. Liu. Leana Ward, a bartender for the licensee, assisted with translation. Mr. Liu had received the appropriate QAR forms from Commission staff but did not believe he had all of the records necessary to complete them. Mr. Liu believed that Ms. Jensen, who had exclusively conducted pull-tab business for the licensee before the partnership dissolved, retained necessary pull-tab records. Mr. Liu informed the agent that his involvement with the licensee's pull-tab business over the years consisted solely of his concern that their pull-tab business consistently lost more money than it earned.

5) Mr. Liu was able to locate approximately one dozen Monthly Income Summary (MIS)<sup>2</sup> reports from the years 2007, 2010 and 2011, prepared by JKS Record Keeping Service (JKS) for the licensee.

6) The agent informed Mr. Liu that he would contact JKS, and the licensee's pull-tabs distributor, Spokane Pull Tabs, and attempt to locate copies of the missing paperwork.

7) On October 21, 2011, the agent contacted Spokane Pull Tabs, and requested that they search their records and provide all of their pull-tab sales invoices associated with the licensee. On November 1, 2011, the agent received copies of the licensee's invoices for June 29, 2007, through September 2011.

8) The agent compared the invoices against the QARs that had been submitted to Commission staff from the third quarter of 2007 through the second quarter of 2011. His review results reflect inaccuracies for each and every quarter reported, and repeated, significant underreporting of pull-tab games purchased.

9) On November 22, 2011, the agent contacted Janet Krogseth, owner/operator of JKS regarding services her company has provided to the license. Ms. Krogseth informed the agent that she always communicated with "Lori" when she conducted pull-tab MIS report business. Ms. Krogseth then provided the agent with the MIS reports for the licensee from 2009 through mid 2011. Ms. Krogseth informed the agent that when she visited the licensee to collect dead games, there were "pull-tabs all over the office." Ms. Krogseth did notice an improvement in the licensee's handling of pull-tabs in 2010, after Commission staff had fined the licensee for a gambling violation.<sup>3</sup>

10) On November 29, 2011, Commission staff conducted a review of MIS reports and the quarterly QARs filed by the licensee and prepared by Ms. Jensen. The comparison revealed that Ms. Jensen underreported games played during the third and fourth quarters of 2009. The review also showed that Ms. Jensen misreported gross gambling receipts and prizes paid in the first and second quarters of 2010 covering the months of January through June 2010.

11) On November 30, 2011, the agent contacted Ms. Kogseth at her place of business, and received copies of the licensee's JKS-MIS reports for 2008. Those documents were compared to the purchase invoices obtained from Spokane Pull Tabs. A test was conducted by the agent to identify any games not accounted for during the period from July 2007 through September 2011. As a result, four pull-tab games were unaccounted for: two in 2007; one in 2008; and one in 2010.

12) On January 3, 2012, the agent contacted Mr. Liu and Ms. Ward at the restaurant. The agent provided Mr. Liu with blank copies of Quarterly Activity Report forms for the third and fourth

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<sup>2</sup> The monthly income summaries record the games removed from play and the income received.

<sup>3</sup> This violation will be discussed in "Administrative History" below.

quarters. The agent asked Mr. Liu about the status of his gambling taxes, but Mr. Liu did not know if he had received any tax invoices. The agent gave Mr. Liu the information he had collected, and discussed the shortages with Mr. Liu. Mr. Liu informed the agent that he had never discussed the possibility of theft related to the restaurant's pull-tab receipts.

The agent's investigation revealed an apparent disregard on the part of the licensee, specifically, former partner Lori Jensen, to abide by gambling requirements. The incidents of under-reporting gambling receipts in 2009 and 2010 are violations of: WAC 230-06-070, Keeping Monthly Records; WAC 230-14-260, Inventory Control; and WAC 230-14-284, Activity Reports for Punch Board and Pull-Tab License. Therefore grounds exist to suspend or revoke the license issued to Ching Hua Garden under RCW 9.46.075 (1), and (8) and WAC 230-03-085 (1), (3), and (8).

#### **ADMINISTRATIVE HISTORY:**

In March 2010, an agent conducted an investigation of the licensee. As a result of that investigation, a Notice of Infraction<sup>4</sup> (NOI) was issued to the licensee for violations of: WAC 230-14-260, Inventory Control; and WAC 230-14-282, Monthly Income Summary. Also in March 2010, an agent conducted an investigation of this licensee for failure to delete winning prizes from game flares, and to properly record winner information. As a result of that investigation, a \$300 Notice of Violation and Settlement (NOVAS)<sup>5</sup> was issued to the licensee for violations of: WAC 230-14-100, Removing Prizes from Flares; and WAC 230-14-110, Recording Winners. No review of QARs was conducted at the time of the 2010 investigation; therefore the underreporting of income was not discovered.

#### **VIOLATIONS:**

1) **RCW 9.46.075(1), and (8)** provide the Commission may revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the licensee, or any person with any interest therein: (The following subsections apply.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;

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<sup>4</sup> Notice of Infraction – A written notice, which advises the licensee of a violation of an administrative rule or law. It is often given after the licensee has been given the opportunity for compliance. There is no fine involved.

<sup>5</sup> NOVAS –A Notice of Violation and Settlement identifies the violation and gives the licensee the opportunity to pay a fine to settle the matter.



(8) Fails to prove, by clear and convincing evidence, that it is qualified in accordance with the provisions of this chapter. RCW 9.46.153(1) provides that it shall be the affirmative responsibility of each licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

2) **WAC 230-03-085(1) and (8)** provides that the Commission may revoke any license or permit when the licensee, or anyone holding a substantial interest in the licensee's business or organization:

(The following subsections apply.)

(1) Commits any act that constitutes grounds for revoking licenses or permits under RCW 9.46.075; or

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gaming activities, as demonstrated through the person's prior activities, criminal record, reputation, habits, or associations.

The licensee violated gambling laws and Commission rules regarding accounting, disclosure and Internal Controls. The licensee also poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gaming activities, as demonstrated through the licensee's repeated violations of record keeping and basic accounting practices. Grounds exist to revoke Ching Hua Garden's license based on 9.46.075 (1), and (8), and WAC 230-03-085(1) and (8).

3) **WAC 230-06-070 Keep Monthly Records** Every person or organization licensed to operate any gambling activity must maintain permanent monthly records of all financial transactions directly or indirectly related to gambling activities. The licensee must include all financial transactions in enough detail to prove compliance with record keeping requirements for the specific gambling activity.

(1) Every licensee must record for each licensed activity:

- (a) The gross gambling receipts; and
- (b) Full details on all expenses; and
- (c) The total cost of all prizes paid.

(2) Commercial stimulant licensees must also record:

- (a) Gross sales of food and drink for consumption on the business premises; and
- (b) Gross sales of food and drink for consumption off the business premises; and
- (c) Gross sales from all other business activities occurring on the business premises.

(3) Licensees must record each licensed activity separately and include all transactions occurring during the calendar month. Licensees must complete these records and have them

available for audit or inspection by our agents or other law enforcement no later than thirty days following the end of each month.

(4) Licensees must include copies of all additional financial data which support tax reports to any governmental agency.

(5) Licensees must maintain each of these records for at least three years from the end of the fiscal year.

The monthly Income Summaries (MIS) reports for this licensee during the years 2007 through part of 2010 were not prepared and maintained in the manner required in (1) above. The manner in which the MIS reports were assembled during those years greatly inhibited the investigating agent's ability to discern relevant financial information attributable to the operation of pull tabs at this licensee. Grounds exist to revoke Ching Hua Garden's license based on 9.46.075 (1), and (8), and WAC 230-03-085(1) and (8).

#### **4) WAC 230-14-260 Inventory Control**

(1) Punch board and pull-tab operators must control and account for each punch board and pull-tab series they obtain. Operators must:

- (a) Enter the I.D. stamp numbers for the series in all records; and
- (b) Attach the packing slip to the original invoice if the pull-tab series is packed in more than one container; and
- (c) Record each pull-tab dispenser they purchase.

(2) Distributors must record every purchase of punch boards or pull-tabs on an invoice. Operators must use this record to account for each series between the time they purchase it and the time they remove it from play. Invoices must include space for the operator to attach:

- (a) The I.D. stamp numbers for each board or series; and
- (b) The date they placed the punch board or pull-tab series out for play.

(3) When operators receive punch boards or pull-tab series, they must ensure that the manufacturer or distributor recorded all required data by comparing the Washington state identification stamp number attached to each punch board and pull-tab series to the number recorded on the purchase invoice.

(4) Operators may use a separate computerized inventory record as long as they:

- (a) Use an I.D. stamp or print a computer generated facsimile of the stamp number on the inventory record; and
- (b) Record all other required information.

During the course of this investigation, which included exhaustive review of records obtained from multiple entities, the licensee failed to locate and account for four pull tab games sold to this licensee during the years 2007 through 2010. Grounds exist to revoke Ching Hua Garden's license based on 9.46.075 (1), and (8), and WAC 230-03-085(1) and (8).

**5) WAC 230-14-284 Activity reports for punch board and pull-tab licensees.**

Punch boards and pull-tab licensees must submit an activity report to the commission. Licensees must complete the report in the format we require and must:

- (1) Cover the periods:
  - (a) January 1 through June 30; and
  - (b) July 1 through December 31; and
- (2) Be received at our administrative office or postmarked no later than thirty days following the end of the reporting period; and
- (3) Be signed by the licensee's highest ranking executive officer or a designee. If someone other than the punch board and pull-tab licensee or its employee prepares the report, then it must provide the preparer's name and business telephone number; and
- (4) Be filed even if they do not renew their license. They must file a report for the period between the previous report filed and the expiration date of the license; and
- (5) Unless they are also licensed for Class D or above bingo, charitable and nonprofit licensees must submit a semiannual activity report for punch boards and pull-tabs; and
- (6) Class D or above bingo licensees with a punch board and pull-tab license must report punch board and pull-tab activity, on the combined quarterly report provided by the commission as explained in WAC 230-10-331.

From 2007 through 2011, the licensee failed to prepare and maintain proper monthly pull-tab reports and underreported their gambling receipts. During the same time period, the licensee failed to maintain and account for their pull-tab inventory. The licensee also failed to submit proper and timely quarterly activity reports, underreported activity in 2009 and 2010, and failed to submit any reports at all for the fourth quarter of 2009. This repeated behavior reflects willful disregard of administrative gambling rules. Therefore, grounds exist to revoke Ching Hua Garden's license based on 9.46.075 (1), and (8), and WAC 230-03-085(1) and (8).



VI.

The charges specified in paragraph IV above constitute grounds for revoking the gambling license issued to the Ching Hua Garden under RCW 9.46.075 and WAC 230-03-085.

VI.

The licensee shall have the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations. In order to begin an Adjudicative Proceeding, the enclosed APPLICATION FOR ADJUDICATIVE PROCEEDING AND REQUEST FOR HEARING MUST BE COMPLETED IN FULL by the LICENSEE OR REPRESENTATIVE and returned to the Gambling Commission within 23 days from the date of mailing of this notice. Failure to return this document will result in the entry of a DEFAULT ORDER pursuant to RCW 34.05.440 and WAC 230-17-010, the imposition of the penalty set out above (REVOCATION OF YOUR LICENSE) or one of lesser degree and shall constitute a waiver of any further rights to a hearing or review in this matter.

STATE OF WASHINGTON )

) ss.

COUNTY OF THURSTON )

Rick Day, being first duly sworn on oath, deposes and says: That he has read the foregoing Notice of Administrative Charges and Opportunity for Adjudicative Proceeding, knows the contents thereof, and believes the same agent to be true, and that he is the Director of the Washington State Gambling Commission and in that capacity has executed said Statement of Charges.

Rick Day  
Rick Day, DIRECTOR

SUBSCRIBED AND SWORN TO before

me this 24 day of February, 2012.

Michelle F. Rancour  
NOTARY PUBLIC in and for the State of

Washington residing at Thurston County

My commission expires on 10-19-15

STATE OF WASHINGTON )  
COUNTY OF THURSTON )

I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding or to her attorney or authorized agent.

Dated at Olympia, Washington this 24 day of February, 2012

Maureen Riehl

Communications and Legal Department  
Washington State Gambling Commission

